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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Douglas E. and Nancy O. Williams - Married Couple Employees - Separate Relocation Allowances

File: B-255824

Date: May 23, 1994

DIGEST

Under Federal Travel Regulations, as amended in September 1991, employees who are members of the same family and who are transferred to the same duty station may elect to receive separate relocation benefits, regardless of when the employees actually relocate, but they may not be paid duplicate benefits. 41 C.F.R. § 302-1.8 (1993). Michael L. Wineman and Kimberly L. Butterworth, B-249457, Mar. 31, 1993, and 57 Comp. Gen. 389 (1978), distinguished. Therefore, each employee may be reimbursed temporary quarters subsistence expenses based on each's separate entitlement for actual expenses incurred, including each employee's claim for one-half their total lodging cost. Each also may be paid a separate full mileage allowance for driving separately to the new station. However, only one miscellaneous expense allowance is payable since only one residence was disestablished and reestablished.

DECISION

An authorized certifying officer of the Department of Agriculture requests an advance decision on certain relocation expense claims of Douglas and Nancy Williams, a married couple who are both employed by the Forest Service and who each transferred from Atlanta, Georgia, to Washington, D.C., at approximately the same time in the spring of 1993.

BACKGROUND

The agency first issued Douglas E. Williams travel orders dated April 26, 1993, transferring him to Washington. These orders listed as immediate family members, Nancy Williams, his spouse, and two children, Bryce and Trevor. On May 14, 1993, the agency issued separate travel orders for Nancy O. Williams to transfer to Washington. Subsequently, Donald Williams's orders were amended to remove Nancy and Trevor as listed family members, and Nancy Williams's orders were

amended to add Trevor as her family member. Thereafter, each of the Williams's traveled under separate orders, with each of them claiming one of their children as a family member. Both employees' orders authorized temporary quarters at government expense.

The Williams's traveled separately to the their new duty station, with Mrs. Williams arriving May 19. Mr. Williams remained in Atlanta an additional day awaiting loading of their household goods, and he arrived at the new station on May 21. Each of the Williams's was authorized the use of a privately owned vehicle at .17 per mile, the rate applicable for an employee and one family member. See Federal Travel Regulation (FTR), 41 C.F.R. § 302-2.3(b) (1993).

For the period in question, after arrival in the Washington area, the entire family occupied temporary quarters together, with each employee claiming half the cost of the quarters on his or her voucher for temporary quarters subsistence allowance (TQSE) purposes. Each of them also claimed the full $700 miscellaneous expense allowance that may be claimed without itemized receipts. See 41 FTR § 302-3.3(2).

Regarding the Williams's entitlement to relocation benefits, the agency asks five questions:

> (1) Since Mr. and Mrs. Williams's departure from their old official duty station was one day apart, does this establish them as transferring at "distinctly" different times?
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> (2) Once temporary quarters are established by the transferring employees, does one employee become primary at the $66 per day rate and the other employee become spouse at the reduced cost of $44 per day?
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> (3) If the answer to #2 is no, then is it legal for the employees to utilize the same receipts and split the total of receipts in half?
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> (4) Can both employees claim the miscellaneous expense as established in Chapter 302-3.3(2)?
>
> (5) Should one employee be authorized use of the POV at a higher mileage rate and second POV be utilized at reduced mileage rate?

OPINION

The agency's first question is based on our decision, Michael L. Wineman and Kimberly L. Butterworth, B-249457,

Mar. 31, 1993, which followed the rule applied in Roberta J. Schoaf, 57 Comp. Gen. 389 (1978). In these cases, we interpreted provisions of FTR § 302-1.8, then in effect (and its predecessors) applicable to employee couples, which limited reimbursement to only one employee with the other employee eligible only as a family member. We held in those cases, however, that the FTR provision did not prevent the payment of separate allowances to each employee because the employees were transferred at distinctly separate times, provided there was no duplication of payments.

Subsequent to the dates of the transfers in those two prior decisions, the General Services Administration, which has the statutory authority to promulgate the Federal Travel Regulations, amended FTR § 302-1.8, effective September 17, 1991, to allow a couple such as the Williams's to elect either to claim relocation benefits separately, or for one employee to claim such benefits with the other employee claimed as a family member. If the employees elect to claim separately, which the Williams's apparently elected, neither spouse may claim the other as an immediate family member, duplicate allowances for non-employee family members are prohibited, and duplicate payments for the same expenses may not be made.

This new provision is applicable in the present case. Therefore, it is under the new provision that questions posed by the agency are being answered.

Concerning question (1), under the amended provisions of the regulations, it is not necessary that the employees be transferred at distinctly different times to claim separate benefits. Therefore, the fact that the Williams's were transferred at about the same time does not affect their entitlement to elect to claim separately.

Concerning questions (2) and (3), for TQSE purposes, the Williams's were in a similar position to any two employees traveling on separate travel orders who share accommodations. They may each claim TQSE separately, for actual expenses each incurred, not to exceed the rates established by the regulations. FTR § 302-5.4. In this case, the four family members occupied the same temporary quarters together for about 50 days costing $83.60 per night including tax. Each employee submitted a separate claim for TQSE of lodging, meals and other expenses for himself or herself and one child. Mr. Williams claimed the child who was over 12 years of age, and Ms. Williams claimed the other child, who was under 12. As lodging expenses, each employee claimed one-half of the $83.60 ($41.80) per night.

Although allowing each employee to elect separate allowances results in possibly higher total reimbursements for TQSE,

since reimbursement is limited to actual expenses incurred and would not result any duplicate payments, each employee's claim may be allowed to the extent it is otherwise correct and does not exceed the maximums prescribed by the regulations.[1]

Concerning question (4), the rule against duplicate payments of expenses does bar payment of a full miscellaneous expense allowance to each employee in this case, i.e. the maximum $700 that may be claimed without further justification and receipts for an employee with an immediate family. FTR § 302-3.3. As stated in the regulations, the miscellaneous expense allowance is meant to defray various contingent costs of discontinuing residence at one location and establishing residence at a new location. FTR § 302-3.1(a). Since the Williams's discontinued one residence at the old duty station and established one residence at the new duty station, the expenses for which the allowance is authorized necessarily would have been incurred in the same transactions, and thus payment of two allowances would be duplicate payments prohibited by FTR § 302-1.8.[2]

Finally, regarding question (5), as noted previously, these employees apparently elected separate relocation allowances as authorized by FTR, § 302-1.8, and each was authorized to travel by and actually drove an automobile, with a dependent child, to the new duty station. In these circumstances, FTR § 302-2.3(a) would apply to each employee separately so that each employee's use of an automobile for travel to the new station would be considered advantageous to the government. Therefore, the 17 cents-per-mile rate provided in FTR § 302-2.3(b), applicable to an employee and one family member, would apply to each employee. Although this provides a greater reimbursement than would be available had the employees not elected separate relocation allowances, it

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[1]For the first 30 days each employee's maximum reimbursement is based on the full CONUS per diem rate prescribed under FTR § 301-7.6(a)(3) and Appendix A of Chapter 301 ($66). For the child over 12, the maximum rate is based on two-thirds of this per diem rate, and for the child under 12, it is based on one-half this per diem rate. For the remaining days, over 30, the maximums are based on three-fourths of the 30-day rates. See FTR § 302-5.4(c).

[2]See also 54 Comp. Gen. 892 (1975), where we reached the same conclusion concerning the same or similar allowances in the case of an employee married to an Air Force officer, if a joint residence is involved.

does not constitute duplicate payment for the same expense since the Williams's traveled separately and incurred separate expenses.

The employees' vouchers are being returned for settlement in accordance with the above.

Seymour Efros

Robert P. Murphy
Acting General Counsel